

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

SEP 16 2011

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2011-0189-PR
)	DEPARTMENT B
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
JACK RICHARD BLACKWELL,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. CR200601654

Honorable Robert C. Brown, Judge Pro Tempore

REVIEW GRANTED; RELIEF DENIED

Jack Blackwell

Florence
In Propria Persona

K E L L Y, Judge.

¶1 In this petition for review, petitioner Jack Blackwell challenges the trial court's dismissal of a successive post-conviction relief petition he filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb the court's denial of post-conviction relief unless it plainly abused its discretion. *State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990). We find no such abuse here.

¶2 Pursuant to a plea agreement, Blackwell was convicted in 2007 of aggravated assault with a deadly weapon and sexual abuse, a dangerous crime against children. The trial court sentenced him to a 3.5-year prison term with credit for 211 days served for the first offense, to be followed by a lifetime term of probation for the second offense. In early 2009, Blackwell filed his first notice of post-conviction relief, which the court dismissed as untimely. Blackwell was released from prison in September 2009. After he admitted violating the conditions of his probation pursuant to a petition to revoke filed in November 2009, his probation was revoked and he was sentenced to a six-year prison term in March 2010. The court subsequently denied Blackwell's "motion for permission to file a delayed, untimely post-conviction relief" in July 2010, and his "notice of untimely petition for post-conviction relief permission to file" in May 2011.

¶3 Blackwell then filed the underlying petition for post-conviction relief in June 2011, in which he appears to challenge the original sentence imposed pursuant to his 2007 plea agreement. The trial court denied the petition, and this petition for review followed. On review, Blackwell contends the court abused its discretion in denying his petition, and asks that we "remand for resentencing to concurrent sentences."

¶4 The trial court denied relief, correctly concluding that Blackwell's post-conviction petition, filed more than four years after he was originally sentenced, was untimely. The court then correctly found his claim to be both waived and precluded pursuant to Rule 32.2(a), and that it is, in any event, without merit. The court clearly identified and resolved the issues Blackwell raised in his petition for post-conviction relief in a manner that will be understood by any court in the future, and did not abuse its

discretion in doing so. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). Because the court’s findings and conclusions are supported by the record before us, we see no purpose in rehashing the court’s entire order here, and we thus adopt it. *See id.*

¶5 Therefore, although we grant the petition for review, we deny relief.

/s/ Virginia C. Kelly

VIRGINIA C. KELLY, Judge

CONCURRING:

/s/ Garye L. Vásquez

GARYE L. VÁSQUEZ, Presiding Judge

/s/ Philip G. Espinosa

PHILIP G. ESPINOSA, Judge